

## **Committee on Sanitary and Phytosanitary Measures**

### **Status**

The WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures establishes rules and procedures to ensure measures are based in science and developed through systematic risk assessment procedures. At the same time, the SPS Agreement preserves every WTO Member's right to choose the level of protection it considers to be appropriate. Sanitary and phytosanitary measures protect against risks associated with plant- or animal-borne pests or diseases, or with additives, contaminants, toxins or disease-causing organisms in foods, beverages, or feedstuffs.

The Committee on SPS Measures<sup>1</sup> serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This consultation includes discussion of specific SPS measures that are perceived to violate the Agreement and the exchange of information on implementation of the obligations in the Agreement. The Committee's work also encompasses an ongoing review of the Agreement's operational provisions related to transparency in the development and application of SPS measures.

### **Assessment of the First Five Years of Operation**

The SPS Agreement was an important evolution in international rules and disciplines for agricultural products. The SPS Agreement serves as a compliment to the WTO Agreement on Agriculture by seeking to ensure that as tariffs, export subsidies and other more traditional measures affecting international trade in agricultural products are liberalized, governments do not replace the traditional tools of agricultural protection with capricious sanitary and phytosanitary barriers.

The SPS Agreement, for the first time, established multilaterally recognized rules and disciplines for the development and application of measures taken to protect human, animal or plant life or health. The Agreement accomplishes this by requiring that SPS measures be transparent, based in science and developed through systematic risk assessment procedures.

At the same time, the Agreement preserves each WTO Member's right to choose the level of protection it considers to be appropriate with respect to food safety, animal and plant health, and other SPS risks, even if a Member's chosen level of protection is higher than the level of protection that would be provided by a comparable international standard. Since the Agreement was adopted, for example, the Administration has launched a number of important initiatives to ensure, in a manner that is fully consistent

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<sup>1</sup>Participation in the Committee is open to all WTO Members. Certain non-WTO Members also participate as observers, in accordance with guidance agreed to by the General Council. Representatives of a number of international organizations are invited to attend meetings of the Committee as observers: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the FAO International Plant Protection Convention Secretariat (IPPC); the International Office of Epizootics (OIE); the International Organization for Standardization (ISO) and the International Trade Center (ITC).

with the Agreement, that domestic and international food products sold to U.S. consumers continue to meet the highest standards in the world.

The Agreement's notification procedures are an important tool, allowing the Administration to identify and seek to resolve potential problems with new SPS measures before they are implemented. Members are required to provide information on proposed SPS actions for comment before they are finalized. Concerns regarding proposed or ongoing SPS actions may be addressed through bilateral consultations and/or raised for more general discussion and scrutiny in the SPS Committee. The most important benefits have been the result of steps that governments have taken, both independently and on the basis of consultations, to implement the Agreement and address particular concerns before potential international differences rise to the level of formal WTO consultations and dispute settlement procedures.

In the cases brought to the WTO Dispute Settlement Body by the United States and other Members, the DSB's decisions have consistently upheld the Agreement's emphasis on science and risk assessment, further reinforcing the need for all WTO Members to ensure that their SPS measures are based on those principles and procedures. At the same time, these decisions have affirmed the right of WTO Members to determine what levels of protection are appropriate, even when they differ from the levels that would be afforded by international standards.

The Administration has pushed aggressively, in the SPS Committee, the WTO Dispute Settlement Body, and a wide range of bilateral and multilateral fora, for full implementation of the Agreement by all current Members and by countries that are in the process of acceding to the WTO. The combination of the SPS Agreement's framework of rules – with its strong emphasis on transparency, science and systematic risk assessment – and the efforts by the United States and other Members to ensure effective implementation of those rules has helped the Administration open up and preserve major export markets for U.S. agricultural products throughout the world.

Throughout the past five years, the WTO Secretariat has organized numerous seminars on the operation of the SPS Agreement in many regions of the world in order to assist WTO Members in complying with the provisions of the Agreement. The Administration also provides technical assistance to individual WTO Members and countries acceding to the WTO on the SPS Agreement. U.S. government agencies such as the Food Safety Inspection Service (FSIS) also provide information and training at permanent centers such as the FSIS facility in College Station, Texas.

## **Major Issues in 1999**

The Committee held three meetings in 1999 to continue monitoring the implementation of the SPS Agreement.

*Review of Implementation of the Agreement:* Article 12.7 of the SPS Agreement provides that “[t]he Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation.” The report of the first triennial review contains a section-by-section analysis of the SPS Agreement, reflecting discussion that took place in the Committee during the review. The report identifies several areas for improvement in implementing the Agreement, as well as follow-up activities by the Committee. At no time during the triennial review

did any Member suggest the reopening of the text of any Article or negotiation of any new text. The SPS Committee adopted by consensus the final report of the triennial review of implementation of the SPS Agreement on March 11, 1999.

*Transparency:* A key opportunity resulting from the SPS Agreement is the ability to obtain information on WTO Members' proposed SPS regulations, controls, and inspection and approval procedures, and to provide comments on those proposals before they are finalized. These opportunities have proved to be extremely useful in preventing problems associated with SPS measures before trade is affected. The United States continued to encourage all WTO Members to establish an official notification authority, as required by the Agreement, and to ensure that the Agreement's notification requirements are fully and effectively implemented.

The SPS Agreement requires each Member to establish a central contact point, known as an inquiry point. This inquiry point serves two primary functions. First, it provides notice to the SPS staff of the WTO Secretariat of a Member's proposed SPS measures and serves as a contact point for questions from other WTO Members. Second, the inquiry point receives notifications from the Secretariat of other Members' proposed SPS measures and circulates them to interested parties for comment.

Prior to the November meeting, the WTO Secretariat conducted a workshop on SPS inquiry points to provide technical assistance and information exchange on the operation of inquiry points. Approximately one-fourth of WTO Members have not yet designated an inquiry point and notified the Committee.

*Guidelines for the Practical Implementation of Article 5.5:* The Committee also was charged with developing guidelines to further the practical implementation of each Member's obligation to avoid arbitrary or unjustifiable distinctions in the levels of SPS protection that the Member considers to be appropriate in different situations (Article 5.5). The Committee has held extensive consultations and Members have generally been satisfied with the considerable progress that has been made on draft guidelines.

In 1999, the Committee continued to discuss practical issues associated with implementation of Article 5.5 regarding consistency in the application of appropriate levels of protection. The Committee informally reviewed suggestions by Members and various drafts of the Secretariat. While progress has been made, discussions continue on three important issues: the role of international standards in the implementation of measures versus in decisions related to the appropriate level of protection; the differentiation between disciplines related to decisions on the appropriate level of protection and the disciplines related to its application through measures; and the differentiation between approaches for food safety and human health, and approaches for animal and plant life and health. Discussions will continue on these issues.

*Monitoring Procedures for the Use of International Standards.* The Committee also was given responsibility for developing procedures to monitor international harmonization and the use of international standards, guidelines or recommendations (Articles 3.5 and 12.4). Accordingly, there was an exchange of information on national regulatory procedures and the use of risk assessment in the development of

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SPS measures. The Committee also established a provisional procedure, which was extended in 1999 for two years, to monitor the use of international standards. The procedure additionally seeks to identify international standards that may have a major impact on trade and that may warrant review because they are out of date, or otherwise technically inappropriate, or because they have not, for other reasons, been adopted by WTO Members. The Secretariat's report (document G/SPS/W/94/Rev.2 at [www.wto.org](http://www.wto.org)) details specific international standards considered under this review.

*Specific Trade Concerns.* The Committee reviewed a number of specific trade concerns, including several related to individual notifications. These included measures related to dioxin; measures related to maximum levels of aflatoxins in food; measures related to antibiotics in feed; and measures affecting raw milk cheeses, other dairy products, beef, poultry products, bovine semen, horses, gelatine, potatoes and milled rice. A number of these matters were resolved following discussions in the Committee or bilaterally.

### **Work for 2000**

In 2000, the Committee is expected to continue discussions on the guidelines called for in Article 5.5 of the Agreement. The Committee also will continue to monitor implementation of the SPS Agreement by WTO Members. The increase in disputes in this area is evidence of the importance which Members place on the effective operation of the Agreement.